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Written statement* submitted by Human Rights Now, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

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* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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Fukushima: the Japanese government to protect people's right to health in accordance with recommendations by the UN Special Rapporteur Anand Grover

1. Background

Nearly three years have passed since the nuclear accident at the Fukushima-Dai-ichi Nuclear Power Station, Northeast Japan, on March 11, 2011. The Japanese government's policies towards the affected population remains insufficient, and there are serious concerns over the affected population's rights to health, especially those of the most vulnerable such as children, pregnant women, the poor, the elderly, and the mentally-ill[1]. Although the government passed the Act on Protection and Support for the Victims of Nuclear Power Plant Accidents (Victims Protection Law) in June 2012, the scope of the support policies is substantially limited. Alarmingly, the government has been disregarding most of the recommendations made by UN Special Rapporteur Anand Grover[2] in his May 2013 report (made following his mission to Japan in November 2012). The SR recommended that the Japanese government take comprehensive measures to prevent nuclear-related health risks to the affected community on human rights grounds. The Japanese government has not taken into consideration the health implications of low-level radiation exposure and has instead been implementing policies premised on the assumption that radiation exposure lower than 100mSv/year is safe. The government's decisions do not reflect the voices of the victims and affected communities.

2. People living in contaminated areas

Many people, including children and pregnant women, still live in areas highly contaminated by the nuclear accident. This is because the government delineated the evacuation zones based on an exposure level of 20 millisieverts per year, a threshold 20 times higher than international protection standards. In areas with radiation levels below this threshold, many have no choice but to remain in these contaminated locations since the government provides almost no support. This disregards international standards and also contradicts wider domestic regulatory standard which prohibits entry to areas with radiation levels above 5mSv/year.

Based on this insufficient standard, the government now plans to undesignate some previous evacuation areas (within 20km ring). Since this decision will be accompanied by termination of monthly compensation by TEPCO, evacuate people will be forced to decide between returning to contaminated areas and remaining in inadequate, temporary shelters with very little financial support. One particularly important recommendation from Anand Grover advised the government to set the radiation exposure threshold to 1mSv/year and base its health-protection policies on this threshold. The Special Rapporteur (SR) referred to epidemiological studies concerning the health implications of low-dose radiation exposure, and pointing out its dangerous effect on human health. The SR called on the government to protect the right to health of the most vulnerable, such as children and pregnant women, by minimizing the impact on their health. He advised the Japanese government to "Formulate a national plan on evacuation zones and does limits of radiation by using current scientific evidence, based on human rights rather than on a risk-benefit analysis, and reduce the radiation does to less than 1mSv/year" (para 78 (a)). The report continues, counseling that "evacuees should be recommended to return only when the radiation dose has been reduced as far as possible and to levels below 1mSv/year. In the meantime, the Government should continue providing financial support and subsidies to all evacuees so that they can make a voluntary decision to return to their homes or remain evacuated"[3]. None of this advice has yet been implemented.

3. Affected People's Rights to Health

[1] Human Rights Now is an international human rights NGO based in Tokyo, Japan <http://hrn.or.jp/eng>
[2] A/HRC/23/41/Add.3
[3] A/HRC/23/41/Add.3 p.17

The Japanese authorities have taken inadequate measures to protect people's right to health. The Special Rapporteur noted that the health management survey conducted by Fukushima prefectural authorities was insufficient and urged the Japanese government to monitor "the impact of radiation on the health of affected persons through holistic and comprehensive screening for a considerable length of time and make appropriate treatment available to those in need" (para.77(a)), emphasizing that "health monitoring should be provided to persons residing in all affected areas with radiation exposure higher than 1mSv/year"(para.77(b))[4]. The government should also avoid "limiting the health check-up for children to thyroid checks and [instead] extend check-ups for all possible health effects, including urine and blood tests"(para.77(e))[5] and "make follow-up and secondary examination for children's thyroid check-up available to all requesting children and parents"(para.77(f))[6]. These recommendations have been ignored.

At present, for people living in the affected area, the health management survey is limited to a behavior survey immediately following the disaster and a thyroid test for children residing in Fukushima. The thyroid examinations extend only to those under 18, and follow-up tests are limited to one every two years, despite the fact that during the course of the existing survey 74 cases of thyroid cancer were either identified or suspected. Other than thyroid examinations, the government has not conducted any health monitoring for people living in the affected area (such as blood or urine sampling, dentistry, ophthalmology, etc.) nor kept any record of illness besides thyroid cancer.

4. Power Plant and Decontamination Workers

One of the important recommendations made by the Special Rapporteur was that the government needs to "monitor the health effects of radiation on nuclear plant workers and provide necessary treatment" (para.77(j))[7] and "take all measures to provide an environment that does not exacerbate their vulnerability and provide access to affordable and quality health facilities, goods and services at all times to all workers."[8]However, these recommendations are as yet unimplemented and the health of the workers remains a grave concern. For full time employees, a medical check is legally mandated by the Regulation Concerning Prevention from Radiation Hazards due to Ionizing Radiation[9]. However, for temporary workers, those who have since left work, and those with radiation exposure below 50mSv/year, there is no periodic monitoring system.

The Special Rapporteur also pointed out that "many workers employed in the nuclear power industry are poor and some even homeless"[10]. The relaxation of bidding restrictions by the Ministry of the Environment, diminished accountability and the convoluted system of contractors involved in government-funded radiation removal projects have led to the mistreatment of decontamination workers in Fukushima. The sheer number and multiple layers of contracts for each project make it impossible to reliably ascertain the reality on the ground, and the proliferation of unlawful recruitment organizations has been reported. Because of this system, it is difficult to keep track of workers, who are therefore not ensured the proper medical checkups the government is legally obligated to provide.[11]

5. Misapplication of Law

In June 2012, the government enacted the Act on Protection and Support for the Victims of Nuclear Power Plan Accidents. It formulates a comprehensive policy regarding medical, living and employment support etc. for the affected population, including areas with exposure levels less than 20mSv/year. However, for a year the Act was not followed by adequate measures. Finally a call for public comments was made in Autumn 2013. Nonetheless the policy eventually prepared and approved by the Cabinet failed properly to reflect the voices of those affected; it mainly promotes victims' returning to their hometowns, whereas the Act was intended to support self-evacuation, provide long-term medical care and checkups, and ensure access to information as well as proper risk communication, regardless of individuals' choices

[4] A/HRC/23/41/Add.3
[5] A/HRC/23/41/Add.3
[6] A/HRC/23/41/Add.3
[7] A/HRC/23/41/Add.3
[8] A/HRC/23/41/Add.3, p15
[9] http://www.rofuku.go.jp/Portals/0/data0/sanpo/sanpo21/sarchpdf/71_p01-11tokusyu.pdf
[10] A/HRC/23/41/Add.3, p15
[11] http://www.reuters.com/article/2013/12/30/us-fukushima-workers-idUSBRE9BT00520131230

between evacuation and return. The Victims' organization asked the government to establish a mechanism for affected people to participate the decision-making process of the implementation of Act, yet it was not achieved.

The Special Rapporteur stated that "Covered Areas' should include those where radiation levels exceed 1mSv/year."(p.21)[12] However, the government produced a measure which covers only an extremely small proportion of residents.

6. Recommendations

The Japanese government is responsible for the protection of its citizens' rights to health by virtue of Article 25 of Japan's Constitution, International Covenant on Economic, Social and Cultural Rights (ICESCR), and the Convention on the Rights of the Child.

HRN urges the Japanese government to reform all relevant policies based on the SR Grover's recommendations mentioned above. All the policies must be formulated based on the rights-based-approach, namely prioritizing protection of the most vulnerable population with due consideration of health risks of low level radiation exposure. In particular, great importance should be placed on applying the radiation dose threshold of 1mSv/year in national plans concerning evacuation zones and in all measures providing for those affected, including implementation of the Victim Support Act. Furthermore, the Japanese government should reform its health policy to provide free, long term, periodic and comprehensive health checks and treatment for all affected people as well as power plant and decontamination workers. As SR recommended, all the policy related to the response of the nuclear accident must be formulated based on concerns for human rights and with full and effective participation of affected community, especially vulnerable people such as women and children.

[12] A/HRC/23/41/Add.3